

NOTE CHANGES MADE BY COURT.

FILED CLERK, U.S. DISTRICT COURT 10/27/2015 CENTRAL DISTRICT OF CALIFORNIA BY: _____ CW _____ DEPUTY

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

BEST ORIENTAL PRODUCE, INC., a
corporation,

Plaintiff,

v.

HONG KONG SUPERMARKET OF
MONTEREY PARK, LTD., a corporation;
HONG KONG SUPERMARKETS OF
CALIFORNIA, INC., a/t/a HONG KONG
SUPERMARKET OF CA, INC., a
corporation; HONG KONG
SUPERMARKET OF MONROVIA, LTD., a
corporation; HONG KONG
SUPERMARKET OF PENNSYLVANIA,
INC., a corporation; HONG KONG
SUPERMARKET OF ELMHURST, INC., a
corporation; HONG KONG
SUPERMARKET OF EAST BRUNSWICK,
INC., a corporation; HONG
SUPERMARKET OF HESTER STREET
CORP., a corporation; HONG KONG
DISTRIBUTION CORPORATION, a
corporation; MON CHONG LOONG
TRADING CORP., a corporation; MYINT J.
KYAW, a/k/a MYINT J. KYANW, a/k/a
JEFFREY MYINT WU, a/k/a JEFFREY WU,
an individual; LEWIS WU, an individual;
EMILY CAI, an individual,
Defendants.

CASE NO. CV 15-08281-AB
(RAOx)

**~~[PROPOSED]~~ TEMPORARY
RESTRAINING ORDER AND
ORDER TO SHOW CAUSE RE
PRELIMINARY INJUNCTION
AND PRELIMINARY
INJUNCTION**

[FRCP Rule 65]

1 Upon review of the Complaint of Plaintiff, BEST ORIENTAL PRODUCE, INC. (
2 “Plaintiff”), on file in the above-captioned action, and the declarations, exhibits and
3 Memorandum of Points and Authorities in support of Plaintiff’s Application for a
4 Temporary Restraining Order and/or Preliminary Injunction submitted therewith, and it
5 appearing to the satisfaction of the Court that this is a proper case for granting a
6 Temporary Restraining Order and Order to Show Cause.

7 IT IS HEREBY ORDERED that Defendants HONG KONG SUPERMARKET
8 OF MONTEREY PARK, LTD., a corporation (“HK Monterey Park”); HONG KONG
9 SUPERMARKETS OF CALIFORNIA, INC. a/t/a HONG KONG SUPERMARKET OF
10 CA, INC., a corporation (“HK California”); HONG KONG SUPERMARKET OF
11 MONROVIA, LTD, a corporation (“HK Monrovia”); HONG KONG SUPERMARKET
12 OF PENNSYLVANIA (“HK Penn”); HONG KONG SUPERMARKET OF
13 ELMHURST, INC. (“HK Elmhurst”); HONG KONG SUPERMARKET OF EAST
14 BRUNSWICK, INC., (“HK Brunswick”); HONG KONG SUPERMARKET OF
15 HESTER STREET CORP., (“HK Hester”); HONG KONG DISTRIBUTION
16 CORPORATION, a corporation (“HK Distribution”); MON CHONG LOONG
17 TRADING CORP. (“Mon Chong”); and MYINT J. KYAW, a/k/a MYINT J. KYANW,
18 a/k/a JEFFREY MYINT WU, a/k/a JEFFREY WU, an individual (“J. Wu”); LEWIS
19 WU, an individual (“L. Wu”); and EMILY CAI, an individual (“E. Cai”) (collectively
20 referred to as “Defendants”) appear in Courtroom **4** of the U.S. District Court for the
21 Central District of California, Los Angeles Division, **312 N. Spring St.**, Los Angeles, CA
22 90012-4701 on **December 14, 2015**, at **10:00 a.m.**, or as soon thereafter as the matter
23 may be heard, then and there to show cause, if any they have, why they, their agents,
24 bankers, subsidiaries, successors, assignees, principals, employees, attorneys, and
25 representatives should not be restrained and preliminarily enjoined during the pendency
26 of this action, pursuant to Rule 65 of the Federal Rules of Civil Procedure, from engaging
27 in, committing, or performing directly and indirectly, any and all of the following acts:

1 A. Removing, withdrawing, transferring, assigning or selling to any other
 2 person or entity, the proceeds from the sales of any or all existing or future inventories of
 3 food or other products derived from perishable (including frozen) agricultural
 4 commodities, and/or receipts of payment for products sold prior to the date of this order
 5 and/or otherwise disposing of assets, books or funds;

6 B. Taking any other action whatsoever which causes, has the effect of causing,
 7 or which otherwise dissipates Plaintiffs' beneficiary interests in trust assets of the
 8 Perishable Agricultural Commodities Act ("PACA") [7 U.S.C. §499e *et seq.*];

9 C. Taking any other action whatsoever which violates 7 U.S.C. §499e(c)(1)
 10 through (4), inclusive, and 7 U.S.C. §499b(4) [§2 of PACA].

11 IT IS FURTHER ORDERED that Defendants, their owners, officers, directors,
 12 agents, subsidiaries, successors, assignees, principals, assignors, attorneys and persons
 13 acting in concert with them, appear at the same time and place to show cause, if any they
 14 have, why they should not be commanded by order of this Court and required to
 15 distribute PACA trust assets in the amount of at least \$43,703.45, which includes
 16 \$40,760.00 in principal, plus interest charges accrued through October 19, 2015, in the
 17 amount of \$2,943.45, all of which is perfected under the PACA trust provisions pursuant
 18 to 7 U.S.C. §499(e)(c) *et seq.*, making in all the sum of \$43,703.45 due as of the date
 19 hereof.

20 IT IS FURTHER ORDERED that pending the hearing and determination of the
 21 foregoing Order to Show Cause, Defendants, their agents, bankers, subsidiaries,
 22 successors, assignees, principals, attorneys, and persons acting in concert with them shall
 23 be and hereby are prevented from transferring, withdrawing or in any other manner
 24 removing Perishable Agricultural Commodities Act [7 U.S.C. §499e *et seq.*] trust assets,
 25 including funds on deposit in banking accounts held by or on behalf of Defendants, from
 26 Defendants' banking accounts, including but not limited to: (1) Defendant HK
 27 Monrovia's accounts held at Royal Business Bank, account number XXXXXX8850,
 28 located at 123 E. Valley Blvd., Suite 101, San Gabriel, California 91776 and with a legal

1 process address of 600 South Figueroa Suite 1888, Los Angeles, CA 90017; (2)
2 Defendant HK Distribution's accounts held at Evertrust Bank, account number XX8768,
3 located at Puente Hills Mall #700, 1600 South Azusa Avenue, City of Industry,
4 California 91748; (3) Defendant Mon Chong's accounts held at United International
5 Bank, account no. XXXXXX6108, located at 41-60 Main Street, Flushing, NY 11355;
6 (4) Defendants' accounts with JP Morgan Chase Bank, NA; and, (5) any other accounts
7 subsequently discovered to be standing in any Defendants' names.

8 IT IS FURTHER ORDERED that pending the hearing and determination of the
9 foregoing Order to Show Cause, and continuing thereafter, Defendants, and their counsel,
10 agents, or representatives, shall be preliminarily enjoined from engaging in, committing,
11 or performing directly and indirectly, any and all of the following acts:

12 D. Removing, withdrawing, transferring, assigning or selling to any other
13 person or entity, the proceeds from the sales of any or all existing or future inventories of
14 food or other products derived from perishable agricultural commodities, and/or receipts
15 of payment for products or crops sold prior to the date of this order and/or otherwise
16 disposing of assets, books or funds;

17 E. Taking any other action whatsoever which causes, has the effect of causing,
18 or which otherwise dissipates Plaintiffs' beneficiary interests in the trust assets;

19 F. Taking any other action whatsoever which violates 7 U.S.C. §499e(c)(1)
20 through (4), inclusive, and 7 U.S.C. §499b(4) [§2 of Perishable Agricultural
21 Commodities Act ("PACA)].

22 IT IS FURTHER ORDERED that in the event Defendants lack sufficient funds to
23 promptly deposit the sums described above, Defendants shall be and hereby are required
24 and ordered to:

25 G. Immediately account to the Court and Plaintiffs for all assets of the PACA
26 trust from commencement of Defendants' business through the date of this Order.

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1 H. Immediately assign Defendants' inventory of perishable agricultural
2 commodities and produce related receivables to Plaintiffs for sale and collection until
3 Plaintiff is fully paid, and deposit and/or deliver complete accounts, records, and
4 information of all of said receivables to Plaintiff's counsel without charge to the trust,
5 and subject to Plaintiff's counsel making a weekly accounting for all receivables received
6 or collected by Plaintiff's counsel in that regard. Plaintiff's counsel shall act as trustee in
7 connection with its duties of collection of the accounts receivable and shall deposit any
8 cash assets of the trust which are collected under this order in a trust account.

9 I. Endorse any checks made, endorsed or paid, to Defendants which are trust
10 assets and which are in their possession or obtainable by Defendants at the time of the
11 entry of this Order, or which Defendants obtain or which become obtainable by
12 Defendants after the entry of this Order, including but not limited to checks representing
13 payment for sales of inventory, and shall deliver said assets within 48 hours of
14 Defendants' receipt of them to Plaintiff's counsel as set forth above. Likewise,
15 Defendants shall deliver any cash assets of the PACA trust which are in its possession or
16 are obtainable by Defendants at the time of the entry of this order, or which Defendants
17 obtain or which become obtainable by Defendants after entry of this Order, within 48
18 hours of Defendants' receipt of them to Plaintiffs' counsel.

19 J. File weekly with this Court satisfactory evidence of compliance with the
20 terms of this Order.

21 IT IS FURTHER ORDERED that pending the hearing and determination of the
22 foregoing Order to Show Cause, and continuing thereafter, Plaintiff and its counsel,
23 agents, or representatives, shall have full and complete and continuing access to all of
24 Defendants' books and records, which shall include but not necessarily be limited to,
25 Defendants' accounts receivable and payable ledgers, invoices, ledgers, computer runs,
26 bank statements and canceled checks, relating to Defendants' business and personal
27 financial status from commencement of Defendants' business activities forward for the
28 purpose of verifying Defendants' accountings required by this Order and for enforcement

1 of this Order. Defendants shall, upon 48 hours notice by Plaintiff's counsel, allow
2 inspection and copying of the books and records of said Defendants by Plaintiffs or its
3 representatives at Defendants' place of business.

4 IT IS FURTHER ORDERED that pending the hearing and determination of the
5 foregoing Order to Show Cause, and continuing thereafter, Plaintiff shall be entitled to
6 depose, under oath, at reasonable times and places, upon at least ~~48~~ 72 hours notice,
7 Defendants and/or Defendants' other principals, owners, directors, officers, shareholders,
8 employees, agents and accountants concerning any matter pertaining to any accounting
9 due pursuant to this Order, any books or records which Plaintiff is entitled to inspect
10 under this Order, the trust assets or any of Defendants' business assets, and/or
11 Defendants' business practices, procedures or operations from commencement of
12 Defendants' business activities.

13 IT IS FURTHER ORDERED that Royal Business Bank, Evertrust Bank, United
14 International Bank, and JP Morgan Chase Bank and any other accounts subsequently
15 discovered to be standing in any Defendants' names, release information to Plaintiffs'
16 counsel about the above-described accounts, including the amounts contained in the
17 accounts, in confidence and only to the extent necessary to verify compliance with the
18 terms of this Order.

19 IT IS FURTHER ORDERED that no bond shall be required to be posted by
20 Plaintiffs before the Temporary Restraining Order is effective.

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1 IT IS FURTHER ORDERED that Plaintiff shall serve Defendants with copies of
2 this Order and all pleadings and other papers in support of the Order on or before
3 **November 16, 2015** ~~by Federal Express with verification of receipt pursuant to Federal~~
4 **Rule of Civil Procedure 4.** Defendants shall file an Opposition, if any, to the Order to
5 Show Cause on or before 4:30 p.m. on **November 23, 2015**, and shall personally serve
6 Plaintiff's counsel with a copy of said Opposition by said deadline. Plaintiff shall file
7 and serve a Reply to Defendants' Opposition, if any, on or before **4:30 p.m.** on
8 **November 30, 2015.**

9 **This temporary restraining order shall take effect as of 5:00 p.m. Pacific**
10 **Daylight Time on October 27, 2015.**

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12 DATED: October 27, 2015


U.S. DISTRICT COURT JUDGE